

## MINUTES

### ALCOHOL AND TOBACCO COMMISSION

FEBRUARY 15, 2005

#### CALL TO ORDER/NOTING OF QUORUM

Chairman Heath called the meeting to order and noted the quorum and the attendance. Present were Vice Chairperson Brizzi and Commissioner Sturtz. Also in attendance were Industry Liaison Okey and Major Anderson.

Michael Curts of ILBA, John Barnett of DISCUS, Terry Smith, Marc Carmichael of IBA, Mark Webb, Lisa Goldner of Bose McKinney and Evans, Grant Monahan, Jeanette Robertson, Ray Cox, Ray Dillon, Mary Walker, Patricia Tutsie and Susan Blair were present as observers.

#### DISPOSITION OF MINUTES

Vice Chairperson Brizzi moved to approve the minutes that were submitted for the January 4, 2005 meeting. Motion seconded by Commissioner Sturtz and it was unanimously approved.

#### HEARING JUDGE'S RECOMMENDATIONS

PARTIES AGREED DISPOSITION (PAD) FORMS – Commissioner Sturtz moved to approve the PAD forms that were submitted for the February 15, 2005 meeting. Motion seconded by Vice Chairperson Brizzi and it was unanimously approved.

RC20-12702 SAMUEL BARNES VFW POST #9944 – Chairman Heath stated he would like to table this matter until it can be further investigated.

DL49-18873 AND DL49-18879 AMERICAN OIL COMPANY – Hearing Judge Choe stated this was a recommended approval by the Marion County Local Board for a new permit and an upholding of that approval by the Commission. The remonstrators filed a timely notice of appeal and the matter was set for appeal hearing before former Hearing Judge Webb. At the appeal hearing, application #DL49-18873 was withdrawn due to matters regarding zoning. Hearing Judge Webb now submits his Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Commissioner Sturtz moved to uphold the Hearing Judge's recommendation and approve the permit. Motion seconded by Vice Chairperson Brizzi and it was unanimously approved.

DL38-20719 HOOK-SUPERX, INC. – Hearing Judge Choe stated this was a recommended denial by the Jay County Local Board for a new permit and an upholding of that recommendation by the Commission. The applicant filed a timely notice of appeal and the matter was set for appeal hearing before former Hearing Judge Webb. Hearing Judge Webb now submits his Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Vice Chairperson Brizzi moved to uphold the Hearing Judge's recommendation to reverse the denial and approve the permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

### **CONSIDERATION OF APPLICATIONS**

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

I incorporate by reference these lists of permit applications for catering and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

Five hundred fifty (550) renewals approved, forty-nine (49) new and/or transfer permits approved, twenty-one (21) permits conditionally approved, nine (9) permits approved for catering, seven (7) permits approved for first year escrow, five (5) permits approved for second year escrow, five (5) permits approved for third year escrow and four (4) permits approved for fourth year escrow.

### **RENEWAL LETTERS AND WAIVER OF FEES**

Vice Chairperson Brizzi moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Commissioner Sturtz and it was unanimously approved.

## **APPLICATIONS FOR DISCUSSION**

RR53-21450 BFPW, INC., D/B/A CITY COFFEE & TEA CO. – Vice Chairperson Brizzi noted this is a new type 112 application with the local board voting three (3) to one (1) to approve.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and approve the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR43-02891 NIGHT SHIFT OF NORTH WEBSTER, INC. – Vice Chairperson Brizzi noted this is a type 210 transfer of stock application with the local board voting four (4) to zero (0) to approve.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and approve the stock transfer. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR45-01571 PARALLAX MANAGEMENT CORP., D/B/A THE RISING SUN – Vice Chairperson Brizzi noted this is a type 210 renewal application with the local board voting four (4) to zero (0) to disapprove.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and deny the renewal. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR87-21473 FRANCO'S PIZZERIA, INC. – Vice Chairperson Brizzi noted this is a new type 209 application with the local board voting two (2) to one (1) to approve.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and approve the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR29-95190 FIVE SEASONS SPORTS COUNTRY CLUB OF INDIANAPOLIS, LLC - Chairman Heath stated the location of this permit was annexed into the city limits of Carmel. The permittee is requesting this type 209 permit be converted to a type 210 permit.

Vice Chairperson Brizzi moved to convert this permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR29-19611 ABBY, INC. - Chairman Heath stated the location of this permit was annexed into the city limits of Carmel. The permittee is requesting this type 209 permit be converted to a type 210 permit.

Vice Chairperson Brizzi moved to convert this permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RC45-08904 REDVILLE, INC., D/B/A RED ROBIN GOURMET BURGERS - Chairman Heath stated the permittee is requesting that the Commission convert this type 211-1 permit to a type 210 permit

Vice Chairperson Brizzi moved to approve this request. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR81-21583 & RR81-21584 DESDE JALISCO, INC. – Vice Chairperson Brizzi noted the applicant is requesting permission to file for a type 103 permit and a type 210-1 permit simultaneously.

Vice Chairperson Brizzi moved to approve this request. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR34-09467 KOKO INVESTMENT CO., INC., D/B/A FANTASY GIRLS – Vice Chairperson Brizzi noted this is a type 210 renewal and transfer of stock application with the local board voting four (4) to zero (0) to approve.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and approve the renewal and transfer. Motion seconded by Commissioner Sturtz and it was unanimously approved.

#### **INACTIVE FILES**

Rr48-02248 RENGES, INC. – Vice Chairperson Brizzi moved to reactivate this permit because it was made inactive in error. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR22-18039 SQUIER ENTERPRISES, INC. - Vice Chairperson Brizzi moved to reactivate this permit because it was made inactive in error. Motion seconded by Commissioner Sturtz and it was unanimously approved.

#### **APPEALS FROM LOCAL BOARD RECOMMENDATIONS**

DL49-21244 MAC'S CONVENIENCE STORES, LLC AND DL45-20837 7405 INDY CORP. – Chairman Heath stated appeals were filed in the above-referenced cases. They will be assigned to a hearing officer.

#### **OLD BUSINESS**

No Old Business

**NEW BUSINESS**

No New Business

**POLICY DETERMINATIONS**

No Policy Determinations

**UNDER ADVISEMENT**

Nothing Under Advisement

**ANNOUNCEMENTS**

No Announcements

**ADJOURNMENT**

Commissioner Sturtz moved to adjourn the meeting. Motion seconded by Vice Chairperson Brizzi and it was unanimously approved.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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DAVE HEATH, CHAIRMAN

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MELANIE BRIZZI, VICE CHAIRPERSON

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DALE STURTZ, COMMISSIONER